

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ANDREW ETLING,

Plaintiff,

V.

Case No. 19-cv-561 JPG/DGW

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

MEMORANDUM AND ORDER

This matter comes before the Court on the plaintiff's motion for leave to proceed *in forma pauperis* (Doc. 3). A federal court may permit an indigent party to proceed without pre-payment of fees. 28 U.S.C. § 1915(a)(1). Nevertheless, a court can deny a qualified plaintiff leave to file *in forma pauperis* or can dismiss a case if the action is clearly frivolous or malicious. 28 U.S.C. § 1915(e)(2)(B)(i). The test for determining if an action is frivolous or without merit is whether the plaintiff can make a rational argument on the law or facts in support of the claim. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Corgain v. Miller*, 708 F.2d 1241, 1247 (7th Cir. 1983). When assessing a motion to proceed *in forma pauperis*, a district court should inquire into the merits of the plaintiff's claims, and if the court finds them to be frivolous, it should deny leave to proceed *in forma pauperis*. *Lucien v. Roegner*, 682 F.2d 625, 626 (7th Cir. 1982).

Here, the plaintiff submitted an affidavit that shows he is not indigent. Therefore, the Court **DENIES** the motion to proceed *in forma pauperis* without prepayment of fees and costs (Doc. 3).

Further, the filing fee is due by June 11, 2019. Failure to pay the filing fee by the due date may result in dismissal of this case.

IT IS SO ORDERED.

DATED: June 4, 2019

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE